

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

INGRID & ISABEL, LLC,

Plaintiff,

v.

BENTIBO, et al.,

Defendants.

Case No. 18-cv-01856-JCS

ORDER GRANTING PLAINTIFF INGRID
& ISABEL, LLC'S EX PARTE
APPLICATION FOR ORDER
AUTHORIZING ALTERNATE SERVICE
OF PROCESS ON DEFENDANT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 4(F)(3)

Re: Dkt. No. 27

Plaintiff Ingrid & Isabel, LLC ("Plaintiff") moved this Court to issue an Order to Authorize Service on the Defendants' Attorneys pursuant to Fed.R.Civ.P. 4(f)(3) and (h), which was noticed for hearing on December 21, 2018, in Courtroom G of this Court, located at 450 Golden Gate Avenue, 15th Floor, San Francisco, CA 94102. The Application was made on the grounds that Plaintiff has been unable to serve Defendants Bentibo and Jinliang Qian ("Defendants"), who reside in China, through normal procedures under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("Hague Convention"). Plaintiff presented evidence demonstrating the following facts.

1. In or around June 2017, Defendants advertised their infringing products on Amazon.com.

2. On or about November 28, 2017, Plaintiff filed a patent infringement report through an automated system with Amazon Brand Registry with Amazon.com, in order to stop the sale of the infringing products being sold by "Bentibo" with ASIN B071XSRWNW on Amazon.com.¹

¹ The infringing products continue to be sold on Amazon.com, now with new ASIN numbers

1 Amazon.com replied to Plaintiff on November 28, 2017, and when a report is filed with Amazon
2 Brand Registry, a notification is automatically sent to the seller.

3 3. On November 30, 2017, attorney Josh Han with the Tian IP firm in Bellevue,
4 Washington (which also employs attorneys in China) and who is also an attorney with Beijing
5 High Law Partners, in Beijing, China, responded to Plaintiff's complaints filed with Amazon
6 about ASIN B071XSRWNW, stating they represented "Carla Stancil" (who Plaintiff presumes is
7 an alias for Bentibo), who sold the Maternity Belly Band on Amazon.com, with ASIN
8 B071XSRWNW, which Plaintiff requested Amazon to remove. Attorney Han sent claim charts to
9 Plaintiff and argued that the accused products did not infringe Plaintiff's patents. Plaintiff and
10 Attorney Han exchanged correspondence and phone calls over the following two months about
11 removing the Bentibo bands from Amazon before Plaintiff prepared and filed its Complaint.

12 4. Unable to proceed any further with Mr. Han, on March 27, 2018, Plaintiff filed its
13 Complaint in this Court against Defendants for damages arising out of Defendants'
14 infringement of Plaintiff's patents and for unfair competition.

15 5. Plaintiff researched Defendants' residence and has made diligent attempts to serve
16 Defendants since filing the Complaint, but nothing has been successful. On April 5, 2018,
17 Plaintiff served a Notice of a Lawsuit and Request to Waive Service of a Summons by mail to
18 Defendants' address in China. Defendants had 60 days to respond, and failed to do so.

19 6. On or about May 25, 2018, Plaintiff initiated the process of serving Defendants through
20 the Hague Convention. Plaintiff engaged the services of Judicial Support who was unable to
21 complete the transfer of documents to the Chinese Central Authority because in wiring their funds
22 the beneficiary's name on the receipt did not reflect "The Supreme People's Court of China,"
23 instead, it stated "The Supreme People's Court of Chin." In filling out the wiring documents, the
24 field to insert the beneficiary's name would not allow for the required number of letters to type
25 "The Supreme People's Court of China," even though that is what the Chinese Central Authority
26 required.

27
28 B07FLMBVS6 and B07K23Q47M.

7. Defendant Jinliang Qian is the owner of the Bentibo trademark that is relevant to this action. A search on the United States Patent and Trademark Office Trademark Electronic Search System (TESS) shows that the “owner name: of the Bentibo trademark is “jinliang qian” and the “owner address” is Room 102 Unit 9 Danxi 1 Destrict, yiwu CHINA. TESS also shows “Legal Entity Type: INDIVIDUAL, Citizenship: China.” On TESS, Jinliang Qian signed applications containing this information, with accompanying declarations, which are on file in the United States Patent and Trademark Office records.

8. On December 30, 2015, a trademark application was filed with the USPTO and signed by Jinliang Qian as Applicant for the trademark Bentibo on the Principal Register. Bentibo/Jinliang Qian listed two additional individuals for correspondence:

LIWEI LU
308 E. 5th Ave
Vancouver, B.C. V5T1H4
Canada
filing@zoroip.com

and

QUEST QIAN
308 E. 5th Ave
Vancouver, B.C. V5T1H4
Canada
ninbharati@gmail.com

9. On December 12, 2018, Ilene Goldberg spoke with process server companies to inquire about service on Chinese entities through the Hague Convention, during the year of 2018, and each of these three companies have been unable to serve defendants in China for up to two to three years.

Having considered all relevant documents and evidence and having considered the arguments of counsel, and good cause appearing therefor, IT IS HEREBY ORDERED that the Motion for Alternative service is GRANTED. Plaintiff may alternatively serve Defendants by doing all of the following:

1. Plaintiff shall send by U.S. mail a copy of the complaint and summons to Josh Zhihua Han at the following address:

1 Josh Zhihua Han Ph.D., J.D.,
2 Tian IP & Technology, LLC,
3 14150 NE 20th St F1-55,
4 Bellevue, Washington 98007.

5 Plaintiff shall also send those documents via email to Josh Zhihua Han at the email
6 addresses **Josh@tianip.com** and **info@tianip.com**.

7 2. Plaintiff shall send by U.S. Mail a copy of the complaint and summons to:

8 LIWEI LU
9 308 E. 5th Ave
10 Vancouver, B.C. V5T1H4
11 Canada

12 And
13 QUEST QIAN
14 308 E. 5th Ave
15 Vancouver, B.C. V5T1H4
16 Canada
17 ninbharati@gmail.com

18 In addition, Plaintiff shall send via email a copy of the complaint and summons to Liwei
19 Lu at **filing@zoroip.com** and to Quest Qian at ninbharati@gmail.com.

20 **IT IS SO ORDERED.**

21 Dated: December 20, 2018

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23 _____
24 JOSEPH C. SPERO
25 Chief Magistrate Judge
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